

In the High Court of Judicature at Madras

Dated:22.01.2003

Coram

The Hon'ble Mr. Justice P. SATHASIVAM

Writ Petition No. 767 of 2003

and

WPMP.No.947 of 2003

Arrasu Entertainments

63 First Cross Street

CIT Nagar, Chennai 35

rep. by S. Boopathi. .. Petitioner

-Vs-

1.The State of Tamil Nadu

rep. by Secretary to Government

Home (Prisons-4) Department

Fort St. George, Chennai 9.

2.Secretary to Government

Information & Tourism (Exhibition)

Department, Chennai 9.

3.The Director

Information & Public Relation

Department, Chennai 9. .. Respondents

For petitioner : Mr.M.Venkatachalapathy,Sr.Counsel

for Mr. M. Sriram

For respondents: Mr. D. Krishnakumar

Spl. Govt., Pleader

:ORDER

Aggrieved by the letter of the third respondent dated

24.12.2002, informing the petitioner that the permission to run the Exhibition in Coimbatore Central Jail Grounds for 30 days, instead of 53 days along with same terms and conditions, the petitioner has filed the above writ petition to quash the same and consequently, forbear the respondents from in any way interfering with the peaceful conduct of the Consumer Exhibition at Jail Grounds, Dr. Nanjappa Road, Coimbatore, as per the original orders of the second respondent, who granted the permission to conduct the same from 20.12.2002 to 10.02.2003.

2. Learned Special Government Pleader takes notice for the respondents.

3. The case of the petitioner is briefly stated hereunder:

According to them, they applied for conduct of Consumer Exhibition at Coimbatore for January-February, 2003 in August, 2002. The petitioner initially applied for grant of permission to conduct the said Exhibition either in the Jail Grounds, Dr. Nanjappa Road, Coimbatore or at V.O.C. Park Grounds, Avinashi Road, Coimbatore. The first respondent, after receipt of the petitioner's request and after considering the various aspects, passed G.O.Ms.No.2471 Home (Prison-4) Department dated 19.11.2002, granting permission to conduct the Consumer Exhibition in the Jail Grounds at Coimbatore for a period of 100 days, i. e., from 01.12.2002. One of the conditions is that the petitioner must deposit a sum of Rs.20,000/- as security deposit to the Superintendent, Central Prison, Coimbatore and on

further condition that the petitioner has to pay the ground rent of Rs.10,000/- per day to the Superintendent of Prison, Coimbatore and the said amount shall be transferred to Prisoners' Welfare Fund.

3 (a). Based on the said order, on 25.11.2002, the second respondent issued the letter granting necessary permission to the petitioner to conduct the Exhibition for the period from 20.12.2002 to 1 0.02.200 3 (53 days) at Jail Grounds, Coimbatore. It was also stipulated that a sum of Rs.10,000/- towards ground rent per day and for 53 days amounting to Rs.5,30,000/- would be paid to the Chief Minister's Public Relief Fund. The petitioner, on receipt of the said order dated 19 .11.2002, deposited a sum of Rs.20,000/- as security deposit on 26.11 .2002. Though the Exhibition is only for 53 days, the petitioner has to make lot of ground work and after taking possession, started to clean the ground, levelling the same in order to put up stalls. The area was divided into five segments consisting various stalls, shops including three amusement parks. The petitioner has also made other provisions, such as Office Complex, Out-post Police Station, First Aid Room, Fire Service etc., The petitioner has also spent sizable amount for amusement parks and for putting various structures, based on the licence issued to conduct the Exhibition for 53 days. The Exhibition was commenced on 22.12.2002, in a grand manner and all the stalls were booked and is going on in full swing as on date.

3 (b). While so, the petitioner was shocked and surprised to receive the impugned letter dated 24.12.2002, issued by the third respondent, intimating the petitioner that the period of Exhibition, which was originally granted for 53 days, is now reduced to 30 days only. In the said impugned letter, it was further stated that since the Government has decided to conduct regular Exhibition during May-July, 2003 at Coimbatore, it was decided to reduce the period from 53 days to 3 0 days. The petitioner presumably came to understand that this might have done because of business rivalry and at the mistake of person who have enmically disposed against the petitioner, hence the present writ petition.

4. In view of the fact that the initial permission granted

earlier comes to an end by 10.02.2003, this Court directed the learned Special Government Pleader to get instruction and place the records.

5. Heard, Mr. M. Venkatachalapathy, learned senior counsel for the petitioner and Mr. D. Krishnakumar, learned Special Government Pleader for the respondents.

6. There is no dispute that by G.O.Ms.No.2471 Home (Prison-4) Department dated 19.11.2002, permission to conduct the Consumer Exhibition in the Jail Grounds at Coimbatore was granted for the period from 01.12.2002 for 100 days, subject to certain conditions. It is also not disputed that based on the said Government Order, the second respondent issued a letter dated 25.11.2002, granting permission to the petitioner to conduct the Consumer Exhibition for the period from 20.12.2002 to 10.02.2003 (for 53 days) at the Jail Grounds, Coimbatore. A perusal of the said Government letter dated 25.11.2002, shows that the second respondent considered the Government Order dated 19.11.2002 as well as the letter of the District Collector, Coimbatore dated 09.09.2002. It is further seen that based on the report of the Collector and considering all the aspects, granted permission for 53 days, i.e., from 20.12.2002 to 10.02.2003, to conduct the Consumer Exhibition at the Jail Grounds, Coimbatore. No doubt, in the said order it is stated that the petitioner has to comply with the directions to be issued then and there.

7. As rightly contended by the learned senior counsel for the petitioner, the said direction in para 2 of the letter dated 25.11.2002, relates to the conduct of the Consumer Exhibition and not for restriction of the period. It is also brought to my notice that after the permission dated 25.11.2002, the Deputy Commissioner, Law and Order, Coimbatore City has also granted permission for the said period in his letter dated 04.12.2002. It is the definite case of the petitioner that in the light of the order of the second respondent dated 25.11.2002, granting permission to conduct Exhibition till 10.02.2003, after taking possession of the land, invited tenders for allotment of shops and also made provisions for various stalls, shops, amusement parks, office complex, outpost police station, first aid room etc., It is also their case that the petitioner has paid Rs.5,50,000/- towards advance in respect of Electricity consumption charge and procured six generators by spending lot of money. It is also stated that the petitioner has paid a sum of Rs.5 lakhs for the purpose of the amusement parks and the structures for the same, which were brought from Bangalore. It is further stated that after completing the civil constructions, the stalls were allotted to various allottees and they were having their respective show rooms and stalls. It is the definite case of the petitioner that the show rooms include reputed persons like TVS, Garment Factories, Cooking wares, Coco Cola stalls and electronic consumable items besides sweet stalls. It is also their case that respective shop owners spent nearly about Rs.50,000/- to Rs.2 lakhs towards their stall in respect of stock in trade.

8. It is also relevant to note that the only reason given in para 2 of the impugned letter of the third respondent dated 24.12.2002, is that taking note of the fact that the Government Exhibition will be held in the month of May-July, 2003 in the very same place and if the present

Exhibition is allowed to continue for 53 days, i.e., till 10.02.2003, the Government Exhibition may not attract more public, thereby there is likelihood to have reduction in the revenue. As rightly pointed out by the learned senior counsel for the petitioner, even at the time of passing G.O.Ms.No.2471 dated 19.11.2002 and the permission of the second respondent dated 25.11.2002, granting 53 days, the Government was very well aware of the on-coming Government Exhibition in the month of May-July, 2003 and in spite of knowing the said fact, the second respondent issued the letter granting necessary permission to run the Consumer Exhibition from 20.12.2002 to 10.02.2003 (for 53 days). In such a circumstance, I am of the view that having granted permission for 53 days, i.e., up to 10.02.2003, based on the earlier Government Order dated 19.11.2002 as well as the report of the District Collector dated 09.09.2002 and in the light of the statement of the petitioner, namely spending huge amount for Exhibition, the third respondent is not justified in reducing the period for 30 days, i.e., from 20.12.2002. In other words, the proposal to conduct Exhibition by the Government was available at the time of according permission to the petitioner and the same cannot be held to be a reason for reducing the period of licence of the petitioner. Further, in the light of the fact that the petitioner had spent and invested huge sum of money and started conducting the Exhibition at Coimbatore with legitimate expectation that it will be for 53 days, by reducing the period to 30 days, the respondents have thwarted the legitimate expectation of the petitioner.

9. It is also not disputed that apart from the initial deposit, the petitioner has to pay a sum of Rs.10,000/- per day for the use of the land. Even according to the third respondent, the Government sponsored Exhibition is going to be held only in the month of May-July, 2003 and if that is so, by permitting the petitioner to continue upto 10.02.2003, as rightly argued will not affect the Government Exhibition in any manner. Further, after granting permission for 53 days i.e., up to 10.02.2003, after taking note of all the aspects, without notice to the petitioner, the third respondent by the impugned letter, has reduced the period to 30 days. In view of assertion made by the petitioner regarding steps taken by them, namely securing permission from the police, Municipality, making deposit with Electricity Board etc., and for installation of various stalls and spending money for installation of stalls, shops, amusement parks etc., I am of the view that the petitioner is entitled notice of hearing before passing the impugned letter. Had the third respondent issued notice before passing the impugned letter, as rightly said, all the above aspects could have been brought to their notice and convinced that they would be justified in granting permission for 53 days. The third respondent has not followed the said recourse.

10. Though the learned Special Government Pleader has contended that the impugned proceedings being non-statutory contract, the present writ petition is not maintainable, in the light of the reasons stated above, more particularly, the first order of the Government in G.O.Ms.No.2471 Home (Prison-4) Department dated 19.11.2002, permission of the second

respondent dated 25.11.2002, permission of the Jail authorities dated 26.11.2002, Police Officer dated 04.12.2002, details regarding spending huge amount towards deposit, expenses for installation of stalls, shops, amusement parks etc., and in the absence of notice or opportunity to the petitioner before passing the order impugned in this writ petition, reducing the period from 53 days to 30 days, I am of the view that in the circumstances narrated above, this Court can entertain and interfere with the impugned order of the third respondent.

In the light of what is stated above, the impugned letter of the third respondent dated 24.12.2002, is quashed and the petitioner is permitted to conduct the Exhibition at Jail Grounds, Coimbtore as per the original orders of the second respondent till 10.02.2003, on the same terms and conditions. The writ petition is allowed. No costs. Consequently, connected WPMP., is closed.

Index:Yes

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TO

1.The Secretary
State of Tamil Nadu
Home (Prison-4) Department
Fort St. George, Chennai 9.

2.The Secretary to Government
Information & Tourism (Exhibition)
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3.The Director
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